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**OFFICE OF PETITIONS**

**GREENBERG & LIEBERMAN, LLC**  
**2141 WISCONSIN AVE, N.W.**  
**SUITE C-2**  
**WASHINGTON DC 20007**

In re Application of

Nelson Phero

Application No. 09/693,096

Filed: October 20, 2000

Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 13, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 14, 2002.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being forwarded to Technology Center 3721 for further processing.

Liana Walsh  
Petitions Examiner  
Office of Petitions

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/693,096	PHERO, NELSON	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thanh K. Truong	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-11, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-11, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on October 16, 2006.
2. Applicant's cancellation of claims 1-8 and 12-14 is acknowledged.
3. Examiner's note: in light of a broader interpretation of the reference of record, the allowable subject matter indicated in the previous office action (mailed February 13, 2002) has been reviewed, and hereby withdrawn. Accordingly, this is a non-final office action.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claim 15 and 16 re rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "a brake assay", line 7, is vague and indefinite, because it is unclear what is "a brake assay". For the purpose of further advancing the examination of the claim, it is construed the term as "a brake assembly".

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Riemenschneider, III (4,535,951).

Riemenschneider discloses an apparatus comprising:

a pole (22); a sleeve (25), disposed on the pole; a plug (24) disposed on the pole; a plate (21) disposed on the pole; and holes (27) in the sleeve (both sides of the sleeve have holes – figure 5), and holes (28) along the pole (figure 5); and wherein the holes along the pole correspond to holes in the sleeve (figure 5).

Alternatively, Riemenschneider can also be interpreted as following:

8. Claims 9-11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Riemenschneider, III (4,535,951).

Riemenschneider discloses an apparatus comprising:

a pole (32);

a sleeve (34 or 42), disposed on the pole;

a plug (29 or 38) disposed on the pole;

a plate (21 or 37) disposed on the pole; and holes in the sleeve (sleeve (42) has a hole there through to receive the thread (39), and the sleeve (34) also has holes to receive pin (35) – figures 4 & 5), and holes (40 or holes not number at bottom of pole (32) to receive pin (35)) along the pole (figure 5); and

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wherein the holes along the pole correspond to holes in the sleeve (hole (40) of the pole (32) correspond with hole in the middle of sleeve (42); and hole at the bottom end of pole 32 correspond with hole on the side of sleeve (34) to receive the pin (35) - see figures 4 & 5);

a brake assembly (41, 39, 47, 46, 45, 48, 38, 42, 43, 44 & 40) disposed on the pole (the assembly (41, 39, 47, 46, 45, 48, 38, 42, 43, 44 & 40) provides a clamping force on the core holders and thus controls the rotation of the spool and therefore being construed as a brake assembly – column 4, lines 50-55); and

wherein the brake assembly communicates with the spool (12).

### ***Conclusion***

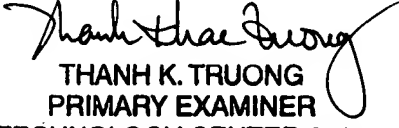
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tk  
August 7, 2007.

  
THANH K. TRUONG  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3700